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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,421	01/22/2002	Norbert Dicken	PHNL 010076	7249

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[REDACTED] EXAMINER

CHOI, JACOB Y

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

2875

DATE MAILED: 04/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No.	Applicant(s) DICKEN ET AL.
	Examiner Jacob Y Choi	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 April 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 13-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 13-31 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01/22/2002 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a first layer thickness of the first layer thickness of the first portion of the curtain is greater than a second layer thickness of the second portion of the curtain, the first & second portion of the curtain must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claim 31 is objected to because of the following informalities: correct "wherein said a second homogeneous" to "wherein said second homogeneous" in the first line. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 13-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Azuma (USPN 5,161,880) or D. H. Tuck (USPN 2,330,935) or Plummer (USPN 4,293,892).

Regarding claim 13, Azuma discloses a first chamber / an enclosed space (area around the tubular lamp, shown in figure 4) for accommodating at least one tubular lamp (21), and a second chamber / an enclosed space (spacer 29 is made of transparent polycarbonate plate material and disposed to form a predetermined space between the surface of the linear) defined by a light emission window (30) and a curtain (28), wherein, when the at least one tubular lamp (21) is located within the first chamber, and light emitted by the at least one tubular lamp passes through the curtain into the second chamber with a first homogenous / uniform light distribution, and wherein any light passing into the second chamber passes through the light emitting window with a second homogenous light distribution. Azuma disclose the claimed invention except for distinct second chamber. It would have been an obvious matter of design variation to omit the space of Azuma, since applicant has not disclosed that the second chamber without the space of Azuma solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the space (29). In addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made to omit the space of Azuma, since it has been held that omission of an element and its function in a combination where the remaining

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elements perform the same functions are before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184.

Similarly either D. H. Tuck or Plummer discloses the claimed invention except for the tubular lamp. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize elongated lamp source than lamp source of either D. H. Tuck (36) or Plummer (22), since the examiner takes Official Notice of the equivalence of tubular lamp and common bulb for their use in the illumination and the selection of any of these known equivalents light sources would be within the level of ordinary skill in the art.

Regarding claim 14, either Azuma or D. H. Tuck or Plummer discloses at least one tubular lamp is located within the first chamber, a first portion of the curtain (28A) is directly opposite a first tubular lamp of the at least one lamp and a second portion is diagonal from the first tubular lamp, and wherein a first light transmittance of the first portion of the curtain is less than a second light transmittance of the second portion of the curtain.

Regarding claim 15, either Azuma or D. H. Tuck or Plummer discloses a first layer thickness of the first portion of the curtain is greater than a second layer thickness (28A) of the second portion of the curtain to thereby establish the first light transmittance of the first portion of the curtain as being less than the second light transmittance of the second portion of the curtain.

Regarding claim 16, either Azuma or D. H. Tuck or Plummer discloses the second chamber is further defined by a sidewall including a light-transmitting material

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(applicant's response to a non-final office action page 10 indicates that "in particular, Azuma teach a second chamber and side walls including a light-transmitting material").

Regarding claim 17, either Azuma or D. H. Tuck or Plummer discloses the claimed invention except for the curtain includes a calcium halophosphate material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize certain material to make the curtain, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Regarding claim 18, either Azuma or D. H. Tuck or Plummer discloses the claimed invention except for the curtain includes a calcium pyrophosphate material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize certain material to make the curtain, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Regarding claim 19, either Azuma or D. H. Tuck or Plummer discloses the claimed invention except for the curtain includes a fluoro-copolymer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize certain material to make the curtain, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

The functional recitation that "serving as a binder" has not been given patentable weight because it is narrative in form. In order to be given patentable weight, a functional recitation must be expressed as a "means" for performing the specified function, as set forth in 35 USC § 112, 6<sup>th</sup> paragraph, and must warrant the presence of the functional language. *In re Fuller*, 1929 C.D. 172; 388 O.G. 279.

Regarding claim 20, either Azuma or D. H. Tuck or Plummer discloses a first chamber for accommodating at least one tubular lamp, a second chamber defined by a light emission window and a carrier wall, and a curtain disposed within the second chamber, wherein, when the at least one tubular lamp is located within the first chamber, and light emitted by the at least one tubular lamp passes through the carrier wall into the second chamber with a first homogenous light distribution, and wherein any light passing into the second chamber passes through the light emitting window with a second homogeneous light distribution. Azuma disclose the claimed invention except for distinct second chamber. It would have been an obvious matter of design variation to omit the space of Azuma, since applicant has not disclosed that the second chamber without the space of Azuma solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the space (29). In addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made to omit the space of Azuma, since it has been held that omission of an element and its function in a combination where the remaining elements perform the same functions are before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184.

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Similarly either D. H. Tuck or Plummer discloses the claimed invention except for the tubular lamp. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize elongated lamp source than lamp source of either D. H. Tuck (36) or Plummer (22), since the examiner takes Official Notice of the equivalence of tubular lamp and common bulb for their use in the illumination and the selection of any of these known equivalents light sources would be within the level of ordinary skill in the art.

Regarding claim 21, either Azuma or D. H. Tuck or Plummer discloses a first portion of the curtain is spaced from the carrier wall and a second portion of the curtain is affixed to the carrier wall, and wherein a first light transmittance of the first portion of the curtain is less than a second light transmittance of the second portion of the curtain.

Regarding claim 22, either Azuma or D. H. Tuck or Plummer discloses a first layer thickness of the first portion of the curtain is greater than a second layer thickness of the second portion of the curtain to thereby establish the first light transmittance of the first portion of the curtain is being less than the second light transmittance of the second portion of the curtain.

Regarding claim 23, either Azuma or D. H. Tuck or Plummer discloses the second chamber is further defined by a sidewall including light-transmitting material.

Regarding claim 24, either Azuma or D. H. Tuck or Plummer discloses the claimed invention except for the curtain includes a calcium halophosphate material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize certain material to make the curtain, since it has been held to be

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within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Regarding claim 25, either Azuma or D. H. Tuck or Plummer discloses the claimed invention except for the curtain includes a calcium pyrophosphate material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize certain material to make the curtain, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Regarding claim 26, either Azuma or D. H. Tuck or Plummer discloses the claimed invention except for the curtain includes a fluoro-copolymer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize certain material to make the curtain, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. The functional recitation that "serving as a binder" has not been given patentable weight because it is narrative in form. In order to be given patentable weight, a functional recitation must be expressed as a "means" for performing the specified function, as set forth in 35 USC § 112, 6<sup>th</sup> paragraph, and must warrant the presence of the functional language. *In re Fuller*, 1929 C.D. 172; 388 O.G. 279.

Regarding claims 27, 28, & 29, either Azuma or D. H. Tuck or Plummer discloses a first luminaire including a first homogeneous light distribution chamber and a second homogeneous light distribution chamber both defined by a first side wall, the second homogeneous light distribution chamber further defined by a first light emission window, and wherein the first side wall and the second side wall both include a light-transmitting material.

Azuma disclose the claimed invention except for distinct second chamber. It would have been an obvious matter of design variation to omit the space of Azuma, since applicant has not disclosed that the second chamber without the space of Azuma solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the space (29). In addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made to omit the space of Azuma, since it has been held that omission of an element and its function in a combination where the remaining elements perform the same functions are before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184.

Similarly either D. H. Tuck or Plummer discloses the claimed invention except for the tubular lamp. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize elongated lamp source than lamp source of either D. H. Tuck (36) or Plummer (22), since the examiner takes Official Notice of the equivalence of tubular lamp and common bulb for their use in the illumination and the selection of any of these known equivalents light sources would be within the level of ordinary skill in the art.

Either Azuma or D. H. Tuck or Plummer discloses the claimed invention except for a second luminaire including a third homogeneous light distribution chamber and a fourth homogeneous light distribution chamber both defined by a second side wall, the fourth homogeneous light distribution chamber further defined by a second light emission window, wherein, a first edge of the first light emission window lies against a second edge of the second light emission window, the first side wall abuts the second side wall, and the first side wall and the second side wall are integrated to form one side wall. It would have been obvious to one having ordinary skill in the art at the time the invention was made to duplicate the first luminaire as applicant disclosed in claims 13, 20 & part of 27, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 30, either Azuma or D. H. Tuck or Plummer discloses the first luminaire includes a curtain disposed within the second homogeneous light distribution chamber, wherein when a least one tubular lamp is located within the first homogeneous light distribution chamber, any light emitted by the at least one tubular lamp passes through the curtain into the second homogeneous light distribution chamber with a first homogeneous light distribution, and wherein any light passing into the second homogeneous light distribution chamber passes through the first light emitting window with a second homogeneous light distribution.

Regarding claim 31, either Azuma or D. H. Tuck or Plummer discloses a second homogeneous light distribution chamber is further defined by a carrier wall, wherein,

when the at least one tubular lamp is located within the first homogenous light distribution chamber, any light emitted by the at least one tubular lamp passes through the carrier wall into the second homogeneous light distribution chamber with a first homogeneous light distribution, and wherein any light passing into the second homogeneous light distribution chamber passes through the first light emitting window with a second homogeneous light distribution.

***Response to Amendment***

5. Examiner acknowledges that the applicant has cancelled claims 1012 and newly added claims 13-12.

***Response to Arguments***

6. Applicant's arguments with respect to claims 13-31 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Forkner (USPN 5,775,799) – lighting device incorporating a zoom able beam spreader

Kobayashi (USPN 5,068,768) – variable light distribution type automobile lamp

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Y Choi whose telephone number is (703) 308-4792. The examiner can normally be reached on Monday-Friday (10:00-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (703) 305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-7724.

JC  
April 22, 2003



Sandra O'Shea  
Supervisory Patent Examiner  
Technology Center 2800